

**REMARKS**

Claims 33, 35, 39-53 and 56-57 are all the claims pending in the application. Claim 33 has been amended to incorporate claim 37 and to further define the protective layer. Support for the amendment can be found in original claim 10 and at pages 4 to 14 of the present specification.

New claim 57 has been added, and support for the new claim can be found, for example, at page 13, lines 24-25 and in Example 4-1 of the present specification.

Claims 36 and 37 have been canceled.

Applicants respectfully submit that with the entry of the proposed amendments, the present application will be in condition for allowance. Since the amendments raise no new issues, entry of the above amendments is respectfully requested.

**I. Response to Rejection of claims 33, 35-37, 39-53 and 56 under 35 U.S.C. § 103(a)**

In paragraph 3 at pages 2-5 of the Office Action, the rejection of claims 33, 35-37, 39-53 and 56 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kawakami et al. (U.S. Patent 5,824,434) in view of Idota et al. (U.S. Patent 5,618,640) is maintained.

The Examiner's position is substantially the same as that set forth in the previous Office Action.

Applicants respectfully traverse the rejection and submit that Kawakami and Idota do

not render the present invention obvious.

The present invention is directed to a nonaqueous secondary battery comprising a positive electrode containing a material capable of reversibly intercalating and deintercalating lithium, a negative electrode containing a composite oxide containing tin represented by formula (3):  $\text{SnM}^3_c \text{M}^4_d \text{O}_t$ ; where  $\text{M}^3$  represents at least two elements selected from the group consisting of Al, B, P, and Si;  $\text{M}^4$  represents at least one element selected from the group consisting of elements of groups 1 to 3 of the Periodic Table, and halogen elements; c represents a number of from 0.2 to 2; d represents a number of from 0.01 to 1; provided that  $0.2 < c + d < 2$ ; and t represents a number of from 1 to 6, a nonaqueous electrolyte containing a lithium salt, and a separator. The positive electrode has at least one protective layer comprising organic fine particles and inorganic fine particles.

In contrast, Kawakami does not appear to disclose or suggest a positive electrode that has a protective layer comprising both organic and inorganic particles. In addition Idota does not make up for the deficiencies of Kawakami. Accordingly, the cited art does not render the present invention obvious.

In view of the above, withdrawal of the rejection is respectfully requested.

## **II. Conclusion**

For the foregoing reasons, reconsideration and withdrawal of the §103 rejection, and allowance of claims 33, 35-37, 39-53 and 56-57 are respectfully requested.

**AMENDMENT UNDER 37 C.F.R. § 1.116**  
**U.S. Application No.: 10/046,708**

**Attorney Docket No.: Q67843**

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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